

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT BOWLING GREEN

FILED
DISTRICT COURT CLERK
WESTERN DISTRICT OF KY
2016 OCT 11 AM 11:24

UNITED STATES OF AMERICA

PLAINTIFF

v.

CRIMINAL NO. 1:16-CR-00002-GNS

JERRY W. THREATT II

DEFENDANT

PLEA AGREEMENT

Pursuant to Rule 11(c)(1) (C) of the Federal Rules of Criminal Procedure, the United States of America, by John E. Kuhn, Jr., United States Attorney for the Western District of Kentucky, and defendant, Jerry W. Threatt II, and his attorney, Patrick Bouldin, have agreed upon the following:

1. Defendant acknowledges that he has been charged in the Indictment in this case with violations of Title 18, United States Code, Sections 922(g)(1), 924(a)(2), 924(e) and Title 21, United States Code, 841(a)(1), 841(b)(1)(C) and 841(b)(1)(B). Defendant further acknowledges that the Indictment in this case seeks forfeiture of a 2001 Ford F-150 Super Crew pickup VIN: 1FTRW08L31KA84261, bearing temporary tag number 8049213; \$2,660.00 and \$630.00 in U.S. currency; and a Jimenez Arms, 9millimeter semi-automatic handgun #078120; a KELTEC, 9millimeter semi-automatic pistol #S7S85; a Para-Ordinance, Model P16, 40 caliber pistol #HN2309; a Hi-Point, Model JH, 45 caliber pistol #316631; a Ruger, 9 millimeter semi-automatic pistol #331-41504; and Remington, Model 1100 12 gauge shotgun #M167274V pursuant to Title 18, United States Code, Section 924(d), Title 21 United States Code, Section 853 and Title 28, United States Code, Section 2461.

2. Defendant has read the charges against him contained in the Indictment and those charges have been fully explained to him by his attorney. Defendant fully understands the nature and elements of the crimes with which he has been charged.

3. Defendant will enter a voluntary plea of guilty to 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 in this case. Defendant will plead guilty because he is in fact guilty of the charges. The parties agree to the following factual basis for this plea:

(Counts 1 & 4) On September 8, 2015, an informant purchased a firearm, as described in the indictment, and 7 grams of crystal methamphetamine, a Schedule II controlled substance, from Jerry W. Threath II at his residence at 555 Allen Street in Liberty, Western District of Kentucky. Both were purchased for a total of \$650. The transaction was recorded on both audio and video.

(Counts 2 & 5) On September 30, 2015, an informant purchased a firearm, as described in the indictment, and approximately ¼ ounces of crystal methamphetamine, a Schedule II controlled substance, from Jerry W. Threath II, at his residence at 555 Allen Street in Liberty, Western District of Kentucky. Both were purchased for a total of \$750. The transaction was recorded on both audio and video.

(Counts 3 & 6) (Controlled purchase) On October 23, 2015, an informant engaged Threath in a series of text messages and two phone calls in order to purchase a handgun, as described in the indictment, and ½ ounce of crystal methamphetamine, a Schedule II controlled substance. The transaction occurred in the parking lot of the IGA store in Liberty in the Western District of Kentucky. Both were purchased for a total of \$800. The informant was wired for sound and video. In addition, agents maintained visual surveillance and took still photos of the meet.

(Count 3) (Vehicle Search) Later on October 23, 2015, Casey County Sheriff's deputies stopped the Black 2003 Ford F-150, driven by Threath for speeding 63 in a 55 mph zone. This is the same vehicle in which the controlled purchase of crystal methamphetamine and of the pistol had occurred earlier in the day. Threath, the driver, was arrested for DUI. Subsequently, a search warrant was obtained and approximately 5.4 ounces of crystal methamphetamine, a Schedule II controlled substance, was found.

(Counts 4 & 8 – 10) (Residence Search) On December 10, 2015, agents learned that an individual intended to purchase controlled substances from Threath at his residence at 555 Allen St. in Liberty. Surveillance on the residence was established. Later, a Russell County Sheriff's Deputy made a stop on the vehicle observed at the Threath residence. The occupant readily admitted that he had purchased approximately 14.5 grams of Meth.

and .2 grams of Heroin from Jerry Wayne Threatt. A search warrant was sought for the Threatt residence in which approximately 150 grams of Meth was recovered, along with firearms described in Counts 8, 9 and 10 of the Indictment.

4. Defendant understands that the charges to which he will plead guilty carry a minimum term of imprisonment of 15 years a combined maximum term of imprisonment of 160 years, a combined maximum fine of \$9,500,000, and a supervised release of at least 4 years and up to any number of years, including life, which the Court may specify. Defendant understands that an additional term of imprisonment may be ordered if the terms of the supervised release are violated, as explained in 18 U.S.C. § 3583. Defendant understands that as a result of the charge to which he will plead guilty he may be ordered to forfeit the property referred to in the notices contained in the Indictment and paragraph 1 of this agreement.

5. Defendant understands that if a term of imprisonment of more than one year is imposed, the Sentencing Guidelines require a term of supervised release and that he will then be subject to certain conditions of release. §§5D1.1, 5D1.2, 5D1.3.

6. Defendant understands that by pleading guilty, he surrenders certain rights set forth below. Defendant's attorney has explained those rights to him and the consequences of his waiver of those rights, including the following:

A. If defendant persists in a plea of not guilty to the charges against him, he has the right to a public and speedy trial. The trial could either be a jury trial or a trial by the judge sitting without a jury. If there is a jury trial, the jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent and that it could not convict him unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt.

B. At a trial, whether by a jury or a judge, the United States would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them. In turn, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court.

C. At a trial, defendant would have a privilege against self-incrimination and he could decline to testify, without any inference of guilt being drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

7. Defendant understands that the United States Attorney's Office has an obligation to fully apprise the District Court and the United States Probation Office of all facts pertinent to the sentencing process, and to respond to all legal or factual inquiries that might arise either before, during, or after sentencing. Defendant admits all acts and essential elements of the indictment counts to which he pleads guilty.

8. Defendant acknowledges liability for the special assessment mandated by 18 U.S.C. § 3013 and will pay the assessment in the amount of \$1,000 to the United States District Court Clerk's Office by the date of sentencing.

9. At the time of sentencing, the United States will

- agree that a sentence of 180 months imprisonment is the appropriate disposition of this case.

- agree that a fine at the lowest end of the applicable Guideline Range is appropriate, and is to be due and payable on the date of sentencing.

-agree that a reduction of 3 levels below the otherwise applicable Guideline for "acceptance of responsibility" as provided by §3E1.1(a) and (b) is appropriate, provided the defendant does not engage in future conduct which violates any federal or state law, violates a condition of bond, constitutes obstruction of justice, or otherwise demonstrates a lack of acceptance of responsibility. Should such conduct occur and the United States, therefore, opposes the reduction for acceptance, this plea agreement remains binding and the defendant will not be allowed to withdraw his plea.

-agree to not seek enhancement of the sentence pursuant to 21 U.S.C. § 851.

-demand forfeiture of a 2001 Ford F-150 Super Crew pickup VIN: 1FTRW08L31KA84261, bearing temporary tag number 8049213; \$2,660.00 and \$630.00 in U.S. currency; a Jimenez Arms, 9millimeter semi-automatic handgun, #078120; a KELTEC, 9millimeter semi-automatic pistol #S7S85; a Para-Ordinance, Model P16, 40 caliber pistol #HN2309; a Hi-Point, Model JH, 45 caliber pistol #316631; a Ruger, 9 millimeter semi-automatic pistol #331-41504; and Remington, Model 1100 12 gauge shotgun #M167274V pursuant to 18 U.S.C. §924(d) and 28 U.S.C. § 2461.

10. Both parties have independently reviewed the Sentencing Guidelines applicable in this case, and in their best judgment and belief, conclude as follows:

A. The Applicable Offense Level should be determined pursuant to a Presentence Investigation conducted by the United States Probation Office.

B. The Criminal History of defendant shall be determined upon completion of the presentence investigation, pursuant to Fed. R. Crim. P. 32(c).

FORFEITURE

11. Defendant agrees to the forfeiture of any interest he or his nominees may have in the property seized during the course of this investigation, including but not limited to: 2001 Ford F-150 Super Crew pickup VIN: 1FTRW08L31KA84261, bearing temporary tag number 8049213; \$2,660.00 and \$630.00 in U.S. currency; and a Jimenez Arms, 9millimeter semi-

automatic handgun #078120; a KELTEC, 9millimeter semi-automatic pistol #S7S85; a Para-Ordinance, Model P16, 40 caliber pistol #HN2309; a Hi-Point, Model JH, 45 caliber pistol #316631; a Ruger, 9 millimeter semi-automatic pistol #331-41504; and Remington, Model 1100 12 gauge shotgun #M167274V, pursuant to Title 18, United States Code, Section 924(d), Title 21 United States Code, Section 853 and Title 28, United States Code, Section 2461. Defendant understands and agrees that some of this property may be administratively forfeited.

12. Defendant is aware of his right to appeal his conviction and that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. Unless based on claims of ineffective assistance of counsel or prosecutorial misconduct, the Defendant knowingly and voluntarily waives the right (a) to directly appeal his conviction and the resulting sentence pursuant to Fed. R. App. P. 4(b) and 18 U.S.C. § 3742, and (b) to contest or collaterally attack his conviction and the resulting sentence under 28 U.S.C. § 2255 or otherwise.

13. If the Court refuses to accept this agreement and impose sentence in accordance with its terms pursuant to Fed. R. Crim. P. 11(c)(1) (C), this Agreement will become null and void and neither party shall be bound thereto, and defendant will be allowed to withdraw the plea of guilty.

14. Defendant agrees that the disposition provided for within this Agreement is fair, taking into account all aggravating and mitigating factors. Defendant states that he has informed the United States Attorney's Office and the Probation Officer, either directly or through his attorney, of all mitigating factors. Defendant will not oppose imposition of a sentence incorporating the disposition provided for within this Agreement, nor argue for any other sentence. If Defendant argues for any sentence other than the one to which he has agreed, he is in breach of this Agreement. Defendant agrees that the remedy for this breach is that the United

States is relieved of its obligations under this Agreement, but Defendant may not withdraw his guilty plea because of his breach.

15. This document and the supplemental plea agreement state the complete and only Plea Agreements between the United States Attorney for the Western District of Kentucky and defendant in this case, and are binding only on the parties to this Agreement, supersedes all prior understandings, if any, whether written or oral, and cannot be modified other than in writing that are signed by all parties or on the record in Court. No other promises or inducements have been or will be made to defendant in connection with this case, nor have any predictions or threats been made in connection with this plea.

AGREED:

JOHN E. KUHN, JR.
United States Attorney

By:

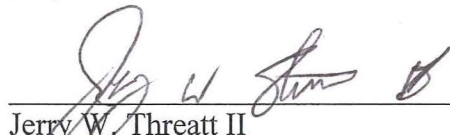


Randy Ream
Assistant United States Attorney

10-11-2016

Date

I have read this Agreement and carefully reviewed every part of it with my attorney. I fully understand it and I voluntarily agree to it.

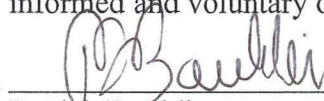


Jerry W. Threatt II
Defendant

10-11-2016

Date

I am the defendant's counsel. I have carefully reviewed every part of this Agreement with the defendant. To my knowledge my client's decision to enter into this Agreement is an informed and voluntary one.



Patrick Bouldin

10/11/16

Date

Counsel for Defendant

JEK:rr:10/3/2016